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TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
ZONING VIOLATION RESOLUTION
#2013-16-CU/APPEAL MDS HOLDINGS [AKA PITCHER INN]

The Zoning Administrator issued a notice of violation to MDS Holdings Inc. for the construction of a deck on their property located at 275 Main Street, parcel id #004001-500 without a permit. The property is located in the Warren Village Commercial and Flood Hazard Overlay Districts and is known as The Pitcher Inn. MDS Holdings appealed the Notice Violation for a Structure (Deck) in the Special Flood Hazard Overlay District (FHO) by applying for a Conditional Use permit #2013-16-CU/AP and hearing with the DRB.

A duly warned hearing was held on May 6, 2013 and attended by DRB members Peter Monte, Jeff Schoellkopf, Lenord Robinson and Virginia Roth. Others also attending were: Ari Sadri, Maggie Smith, Melissa Roberts, Sue Carter, Marilyn Miller, Miron Malboeuf and Ruth Robbins. The hearing was continued on to a second hearing and site visit on May 20, 2013. Attending both the site visit and the hearing were DRB members Lenord Robinson, Peter Monte, Jeff Schoellkopf, Virginia Roth and Tom Boyle. Mr. Malboeuf and Mr. Sadri were also at the site visit and along with Ruth Robbins were at the hearing following the site visit.

Findings of Fact and Conclusions of Law:

1. In response to the violation MDS Holdings submitted an application for a permit for the building of the deck. With the permit application was a narrative which explained that the construction of the deck was in response to the damage sustained to the deck during TS Irene and not a new structure. A letter from the architect back when the deck was originally built was also submitted as verification that the deck had been in existence over 15 years ago.
2. The deck is 9 feet by 12 feet, [108 sq. ft.] the same size and dimension as it was before TS Irene. During a site visit on May 20th the DRB members observed that the deck sits on a stone wall, some of which was cemented in during the reconstruction while some appears to still be dry laid. There is also a concrete footing located at the base of the whole supporting structure. Also observed was a railing on the water side of the deck but otherwise it has no "sides" that would impede the flow of water.
3. Since the deck was not critical to the day to day operation of the Inn, its repair was not done as soon after TS Irene as the other repairs were done. The actual re-construction was done this past fall but due to its location was not noticed by the Zoning Administrator until recently.
4. The DRB found that the reconstructed deck satisfies the requirements of Sec. 5.3 (E) (1) (h) as it is less than 500 square feet and located such on the site as to offer the minimum resistance to the flow of flood waters and meets the other listed criteria.
5. The DRB found that the structure cannot be relocated to a less hazard prone area due to its connection to two pathways for safe foot traffic through the property.
6. The replacement deck under review meets all the requirements under Sec. 5.3 (D) Flood Hazard Overlay District – Development Review item (7) Nonconforming Structures and Uses.
7. The replacement deck under review also meets the standards under conditional Use Sec. 5.3 (A) items 1 through 5.

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Notice of Decision:

The Development Review Board finds that the Zoning Administrator's notice of violation that the deck was reconstructed without a permit was correct under Sec. 5.3 (D) (1). The Board hereby dismisses the appeal by the applicant and authorizes the Zoning Administrator to issue a permit for the deck as applied for based on the afore noted review of the Land Use and Development Standards as they apply to this application.

Development Review Board

Peter Monte date

Virginia Roth *7/1/2013*

Virginia Roth date

Lenora Robinson *7/1/13*

Lenora Robinson date

Jeff Schoellkopf date

Tom Boyle *7-1-13*

Tom Boyle date

TOWN OF WARREN, VT

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at 11 o'clock A M and Received in

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Robinson

TOWN CLERK